



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
STANISLAW R. BURZYNSKI

Serial No.: 09/995,010

Filed: November 27, 2001

For: FORMULATION OF AMINO ACIDS
AND RIBOFLAVIN USEFUL TO
REDUCE TOXIC EFFECTS OF
CYTOTOXIC CHEMOTHERAPY

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Confirmation No.: 9045

Group Art Unit: 1614

Examiner: D. Jones

Atty. Dkt: BURG:049
10379.0049.NPUS00

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REQUEST FOR EXTENSION OF TIME TO RESPOND TO
FINAL OFFICE ACTION DATED MAY 16, 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF EXPRESS MAILING	
NUMBER	EV 318622145 US
DATE OF DEPOSIT	11-12-03
I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
Signature	

Sir:

Pursuant to 37 C.F.R. § 1.136(a), Applicant petitions for an extension of time of three months to and including November 16, 2003 in which to file the enclosed Request For Continued Examination (RCE) in response to the Final Office Action dated May 16, 2003. November 16, 2003 falls on a Sunday. The RCE will therefore be timely filed, with a three-month extension of time, if filed by Monday, November 17, 2003.

Though Applicant requests a three-month extension of time, Applicant respectfully submits that he should only be charged a fee for two months, i.e., \$210.00 (small entity). Applicant has been required to submit this extension and the accompanying RCE because the United States Patent and Trademark Office has misplaced Applicant's file. As described below,

the pending claims should have been allowed during the fifth month following the Final Office Action, without any need for filing an RCE or an extension of time.

Applicant filed a response to the Final Office Action on August 15, 2003. The Examiner issued an Advisory Action on September 5, 2003 (during the fourth month from the Final Office Action). The Advisory Action indicated that some claims were allowable and that some claims remained rejected. Applicant's Patent Agent contacted the Examiner during the fifth month to propose canceling the non-allowed claims via an Examiner's Amendment, thereby putting the application into condition for allowance. Several days later, the Examiner informed Applicant's Patent Agent that the Application had been misplaced and that the proposed amendments should be submitted via an Amendment After Final. Applicants submitted the Amendment After Final on September 5, 2003 (still during the fifth month). This Amendment simply cancelled the non-allowed claims, putting the application into allowance during the fifth month. Applicant has now been informed that the application has still not been found and that Applicant is forced to file this RCE to keep the application from going abandoned.

Applicant now submits a RCE, a second copy of the previously submitted Amendment After Final, which includes a certificate of mailing evidencing the October 8, 2003 mailing date, and this request for a three-month extension of time. This application would have been in condition for allowance during the fifth month from the Final Office Action, at the latest, and no RCE would have been required if the PTO had not misplaced the application. However, Applicant has agreed to file a RCE, at his expense, and to pay for a two-month extension of time. Pursuant to 37 C.F.R. § 1.17, the Commissioner is hereby authorized to deduct the \$210.00 small entity fee for a two-month extension of time from Howrey Simon Arnold & White, LLP Deposit Account 01-2508/10379.0049.NPUS00/REC.

Applicant respectfully requests that he be charged for a two-month, instead of three-month extension of time. However, should a three-month extension of time be required, Applicant, over protest, authorizes the Commissioner to deduct the \$475.00 small entity fee for a three-month extension of time from Howrey Simon Arnold & White, LLP Deposit Account 01-2508/10379.0049.NPUS00/REC. Should any additional fees be required for any reason related to the enclosed materials, the Commissioner is authorized to deduct said fees from Howrey Simon Arnold & White, LLP Deposit Account 01-2508/10379.0049.NPUS00/REC.

Respectfully submitted,



Raymond Reese
Reg. No. 47,891
PATENT AGENT FOR APPLICANT,
Stanislaw R. Burzynski

Howrey Simon Arnold & White, LLP
750 Bering Drive
Houston, TX 77057-2198
(713) 787-1558

November 12, 2003